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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4468 OF 2006

Sumit Chaitanya Srivastav .. Applicant
Versus
State of Maharashtra & Anr. .. Respondents

Mr.A.P.Mundargi, Senior Advocate with K.J.Reddy
for applicant
Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 19th December 2006

P.C.

. Applicant is arrested in connection with
C.R.No.253 of 2006 registered with Vashi Police
Station. Offences alleged are punishable under
section 489 B and C of I.P.C.

2. Applicant was arrested and had approached
for bail during the course of investigations
along with co-accused. Co-accused were enlarged

on bail by this Court but the applicant's application was not considered. He approached trial court after investigations were complete and charge sheet is filed.

3. Submission of Mr.Mundargi is that barring a statement of co-accused and recovery of 92 notes of denomination of Rs.500/-, there is nothing incriminating as far as present applicant is concerned. Ingredients of the aforesaid provisions are thus prima facie not satisfied. This is not a case where a gang has been busted and notes have been in circulation and possession of various persons and of various denominations. The only reason for the applicant's application being rejected is that the applicant's role cannot be said to be on par with that of the co-accused. So also, his conduct when apprehended, disentitles him for bail.

4. Learned A.P.P. does not dispute that the considerations weighing with the learned

Additional Sessions Judge Thane cannot straight away be a factor for denying bail, more so, in the facts and circumstances of this case. Although he alleges that punishment for the offence prescribed is life imprisonment, yet, he emphasised the fact that the applicant if enlarged on bail, would not be available for trial. He has no permanent residence within the limits of trial court but outside State. Mr.Mundargi states that he permanently resides at Pune. Be that as it may, this aspect can be taken care of by imposing stringent conditions. Hence, following order:-

i) The applicant arrested in connection with C.R.No.253 of 2006 registered with Vashi Police Station shall be enlarged on bail in the sum of Rs.50,000/- with one or two sureties within the State of Maharashtra in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the concerned investigating officer of Vashi Police Station once a fortnight on every 1st and 15th of every month between 5.00 p.m. and 7.00 p.m. till conclusion of the trial. Applicant shall surrender his passport to the I.O., if any.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to

condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)